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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/659,650

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Steven P. Hergott

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EXAMINER

PRICE, RICHARD THOMAS JR

ART UNIT

PAPER NUMBER

3643

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/659,650
Filing Date: September 10, 2003
Appellant(s): HERGOTT ET AL.

Timothy J. Zarley
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed April 26, 2006 appealing from the Office action mailed October 19, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

Art Unit: 3643

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Duroyon (US Patent 4,437,209).

Duroyon teaches a stuffing method and apparatus which are structurally similar to the Applicant's claimed method of advancing a natural casing along the length of a hollow meat stuffing tube. More specifically, the method includes "placing a hollow natural casing 27 on the outside surface of a hollow stuffing tube", "placing a follower 72 against an upstream end of the natural casing to slide the natural casing forwardly along the stuffing tube towards a discharge end", "placing a hollow conical shaped restrictor 65 on the stuffing tube with a smaller diameter end 63 adjacent the discharge end of the stuffing tube to decrease the diameter of the natural casing as it is being slidably moved towards the discharge end of the tube" and "placing a twisting mechanism 40 in spaced relation to and located downstream from the hollow conical shaped restrictor 65".

In regards to claim 6, a longitudinally movable shaft structure (unnumbered and connected to element 116 as shown in Figures 1 and 2) is provided parallel to the stuffing tube and connected to the follower.

Art Unit: 3643

(10) Response to Argument

With regard to the Applicant's first argument, the reference to Duroyon teaches "decreasing the diameter of the natural casing with the side wall (unnumbered) of the conical shaped restriction 65 or holder". See Figures 2 and 3. The smaller diameter end 63 or sizing ring is an integral part of the hollow conical portion or holder 65. The inner surface of the elements 65, 63 and 64 is considered to broadly constitute the sidewall of the hollow conical restrictor. And as such, the reference to Duroyon is believed to read on the claimed invention because the side wall of the hollow conical restrictor decreases in diameter from a larger diameter end to a smaller diameter end, and as the natural casing interacts with the sidewall it will decrease in diameter. In that, in some sausage making machines the shirring of the casing along the discharge end will reach extremes because the follower will push the casing to far towards the discharge end.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Thomas Price



Primary Examiner GAU: 3643

Conferees:  Thomas price  SPE Peter Poon  SPE Michael Carone